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January 24, 2000

by: Hand

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
Washington, D.C. 20554

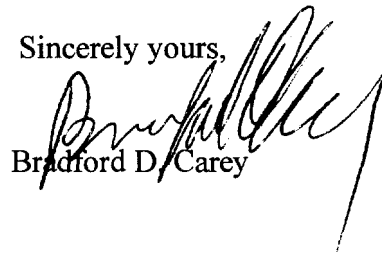
Re: MM Docket 99-329
Amendment of Section 73.202(b)
Avalon, Fountain Valley, Adelanto,
Ridgecrest and Riverside, California

Dear Ms. Salas:

On behalf of Amaturio Group of L.A., Ltd., (the Petitioner in this proceeding), I forward herewith an original and four copies of the Reply Comments of Amaturio Group of L.A., Ltd. The filing of reply comments completes the pleading cycle and this matter is now ripe for action by the Commission's staff under delegated authority.

As always, please feel free to call me with any questions you might have. Additionally, I would be appreciative if a copy of any correspondence regarding this matter would be directed to my attention. With the best of personal regards, I am

Sincerely yours,


Bradford D. Carey

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments,)
FM Broadcast Stations.)
(Avalon, Fountain Valley, Adelanto,)
Ridgecrest and Riverside, California))

MM Docket No. 99-329
RM-9701

To: Chief, Allocations Branch:

REPLY COMMENTS OF AMATURO GROUP OF L.A., LTD.

Respectfully submitted by
Amaturo Group of L.A., Ltd.

by its Counsel,

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Ashton R. Hardy, Esq.
Hardy & Carey, L.L.P.
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(504) 830-4644

Dated as of January 24, 2000

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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)
)
Amendment of Section 73.202(b)) MM Docket No. 99-329

Table of Allotments,) RM-9701
FM Broadcast Stations.)
(Avalon, Fountain Valley, Adelanto,)
Ridgecrest and Riverside, California))

To: Chief, Allocations Branch:

REPLY COMMENTS OF AMATURO GROUP OF L.A., LTD.

The Amaturro Group of L.A., Ltd. ("Amaturro" or "petitioner"), licensee of Stations KLIT, Channel 224A, Avalon, as well as Station KELT, Channel 224A, Riverside, California, and KMLT, Channel 224A, Thousand Oaks, California hereby states its **Reply Comments**¹ in response to the **Notice of Proposed Rule Making** in this proceeding which was adopted November 10, 1999 and Released: November 19, 1999 ("Notice" or "NPRM").² These Reply Comments address the **Comments of Adelman Communications, Inc.** ("Adelman"), the only party other than Amaturro to have filed Comments in this proceeding.³

¹In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of these Comments are being filed.

²The NPRM set the comment date as January 10, 2000. Amaturro timely filed Comments. These Reply Comments are being filed on or before January 25, 2000 and are, therefore, timely. Amaturro's standing in this proceeding has been established.

³Pursuant to the Commission's rules, any party filing comments was obligated to have served them on Amaturro's undersigned counsel. Comments were only received from Adelman. A review of the Commission's Electronic Comment Filing System on January 19, 2000 disclosed the NPRM and the Comments filed by Amaturro and Adelman.

I. AMATURO SEEKS TO PROVIDE TWO COMMUNITIES THEIR FIRST LOCAL SERVICE.

Amaturo seeks the reallocation of Channel 224A from Avalon to Fountain Valley, as that community's first local aural transmission service and modification of the license of Station KLIT accordingly, as well as the reallocation of Channel 224A from Riverside to Adelanto, California, as that community's first local FM service, and accompanying modification of the license of Station KELT. Additionally, to accommodate its proposal, Amaturo requests the substitution of Channel 224A for Channel 224B1 at Ridgecrest at a newly specified transmitter site and modification of the license of Station KZIQ-FM, as well as a change in the reference coordinates of Station KMLT, Channel 224A, Thousand Oaks, California, to avoid a short spacing to the proposed reallocation of Channel 224A to Fountain Valley, California.

The requested reallocations to Fountain Valley (population 53,691),⁴ and Adelanto, California (population 8,517), are each mutually exclusive with their present allocations at Avalon and Riverside.

II. ADELMAN SEEKS AMENDMENTS OF THE TABLE OF ALLOTMENTS THAT ARE NOT ELECTRICALLY MUTUALLY EXCLUSIVE.

Adelman is the licensee of stations KLOA (AM) and KLOA-FM, Ridgecrest and KEDD (FM), Johannesburg, California. Adelman's principal is the proposed assignee of KRAJ (FM), Johannesburg, California.⁵ Adelman has proposed to amend the Table of Allotments by substituting channel 280A at Edwards for channel 280B1 at Johannesburg,

⁴ Population figures reported herein were taken from the 1990 U.S. Census Reports, as set forth in the NPRM.

⁵ See Comments of Adelman Communications, Inc. filed January 10, 2000.

California and modification of its license for station KEDD accordingly. Adelman's proposed changes to the Table of Allotments are pending in MM Docket 99-239.

Adelman and Amaturro agree that there is no mutual electrical exclusivity between their separate proposals, and **Adelman did not file its proposal as a counter proposal in this proceeding.**

Amaturro filed comments and its proposal as a counter proposal in MM Docket 99-239 in response to the Notice of Proposed Rule Making, noting that Adelman's Petition for Rule Making and the then pending Petition for Rule Making filed by Amaturro (on which this proceeding is based) each proposed down-grading a station serving a common area and asserting that the proposals would be mutually legally exclusive to the extent that the Commission might consider adversely any reduction below five of the number of services that a person would receive were a particular proposed amendment of the Table of Allotments adopted.

III. AMATURO'S PROPOSAL IS PREFERRED OVER ADELMAN'S.

Amaturro respectfully submitted in MM Docket 99-239 that the public interest would be served by the Commission granting the changes to the FM Table of Allotments sought by both Amaturro and Adelman, but that were the Commission to determine that the public interest would not be served by *both* substitution of channel 280A at Edwards for channel 280B1 at Johannesburg (as sought by Adelman) *and* downgrade of channel 224 at Ridgcrest from class B1 to class A (and the other changes sought by Amaturro), the Commission should select the proposal that is to be preferred under its established criteria, that of Amaturro.

Amaturo's proposal would result in two communities receiving their first local transmission service, whereas Adelman's proposal would result in only one community receiving its first local transmission service. Creation of new service in two communities rather than just one is generally strongly preferred by the Commission.

Moreover, the population (53,691) of *one* of the communities to which Amaturo proposes to provide first local transmission service, Fountain Valley, is more than twice that claimed for Edwards under Adelman's theory of population counting.

Amaturo's proposal would result in a net of 1.4 million people gaining a reception service. On the other hand, Adelman's proposal would result in 37,445 persons losing a reception service while only 29,885 persons would gain a reception service, for a net loss of a reception service by over 7,500 people.⁶

Amaturo's proposals would result in elimination of grand fathered short-spacing interference to 1.5 million people, whereas Adelman does not even claim that any interference would be eliminated under its proposal.

Under all of the relevant criteria, Amaturo's proposal is to be preferred over that of Adelman, if it were necessary and appropriate to compare the proposals.

IV. UPGRADE OF KRAJ PROVIDES ANOTHER RECEPTION SERVICE.

Adelman states that pursuant to a one-step upgrade for station KRAJ, Johannesburg, California from channel 265A to channel 265B1, "any loss of service occurring as a result of a downgrade and relocation... would be offset by the proposed upgrade of KRAJ to a B1 facility."

⁶These calculations are based on the Technical Statement that was attached to the Reply Comments filed by Amaturo in MM Docket 99-239 and are believed to be more precise than were those of Adelman. These calculations are without consideration to the one-step upgrade of KRAJ discussed, *infra*.

In view of the upgrade of KRAJ, the 107 persons that would receive four instead of five services under Amaturio's proposal will continue to receive five services.⁷ Thus, based on Adelman's filings, adoption of Amaturio's proposal will not result in any listeners being reduced below five reception services.⁸

V. A PREFERENTIAL ARRANGEMENT OF ALLOTMENTS WILL RESULT FROM GRANT OF AMATURO'S PROPOSAL IN THIS PROCEEDING.

Amaturio demonstrated in its Petition that the requested reallocations will result in a preferential arrangement of allotments (*Change of Community R&O* at 4873), as it will provide a first local aural transmission facility to each of the incorporated communities of Fountain Valley and Adelanto,⁹ without depriving either Avalon or Riverside of local service.¹⁰

⁷The KRAJ upgrade application, FCC File No. BPH-990917AM, was granted on January 14, 2000.

⁸Adoption of both Amaturio's proposal and Adelman's proposal would appear, based on Adelman's statements about KRAJ, to result in 107 people receiving four instead of five services. As set forth in Amaturio's Petition for Rule Making, such minimal losses are more than off-set by gains. 182 people will gain their fourth and 506 people will gain their fifth aural service if Amaturio's proposal is adopted.

⁹ The Petition established that neither Fountain Valley nor Adelanto is part of an urbanized area, and therefore no issues relative to the movement of service to an urbanized area are presented. Further, Amaturio provided demographic information concerning Fountain Valley and Adelanto to establish that each of those incorporated communities are self-contained. Therefore, even if Fountain Valley or Adelanto were part of an urbanized area, it would not have a negative impact on the instant proposal as the public interest is furthered by the allotment of a station to a community that is distinct from the urbanized area's core. See Canovanas, etc., Virgin Islands, 8 CR 1169 (1997).

¹⁰ In this regard, Avalon will continue to receive local service provided by Station KISL(FM), Channel 204A and Station KBRT(AM). Riverside will continue to receive local service provided by Stations KUCR, Channel 202A, KSGN, Channel 209A, KSSE, Channel 248B, KGGI, Channel 256B, as well as AM Stations KDIF and KPRO.

VI. AMATURO'S PROPOSAL WILL PROVIDE AN ADDITIONAL SERVICE, NET OF LOSSES, TO MORE THAN 1.4 MILLION PERSONS.

The requested reallocations will not create any white or gray areas and will add service to in excess of 2.3 million persons. Although 900,000 persons will lose service, the Petition demonstrated that they will still receive service from five or more aural services with the exception of 107 people who will continue to receive four aural services. The Petition further demonstrated that these minimal losses are off-set by the overall gains (182 persons will gain a fourth service and 506 people will gain their fifth aural service). And, as discussed above, the upgrade of KRAJ will result in no listeners being reduced below five reception services.

VII. MORE THAN 1.5 MILLION PEOPLE WILL CEASE TO RECEIVE INTERFERENCE UNDER AMATURO'S PROPOSAL.

Amaturo's proposal will eliminate grand fathered short spacings between Stations KLIT, Avalon and KMLT, Thousand Oaks, as well as between Station KELT and KXFG, Channel 225A, Sun City, California, and Station KUUU, Channel 224A, Indio, California, resulting in the removal of interference to more than 1.5 million people.

VIII. THE COMMISSION'S REQUIREMENTS TO AMEND THE TABLE OF ALLOTMENTS HAVE BEEN FULFILLED.

Amaturo has committed, and again hereby commits, that if the Table of Allotment is Amended as Amaturo has proposed, it will promptly file applications for construction permits on the modified allotments and, if granted construction permits, will promptly construct and operate stations on the new allotments. Amaturo again restates and incorporates by reference its previous showings and commitments, including those to reimburse the licensee of KZIQ-FM.

Amaturo demonstrated in its Petition that the licensee of Station KZIQ-FM, Channel 224B1, Ridgecrest, has consented to the proposed downgrade at that community to accommodate the proposed reallocation of Channel 224A from Riverside to Adelanto, California. Amaturo attached to its Comments, as Exhibit One, a notarized statement from the licensee of Station KZIQ-FM affirming its consent to relocate its transmitter consistent with the petitioner's proposal.

Amaturo's Comments also made all necessary commitments to reimburse the licensee of KZIQ-FM for its costs and included an Affidavit from Joseph Amaturo attesting thereto.

IX. AMATURO'S PROPOSAL IS IN THE PUBLIC INTEREST.

The public interest will be furthered by adoption of the amendment to the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, with regard the communities listed below, as requested by Amaturo in the Petition:

	<u>Channel No.</u>	
	<u>Present</u>	<u>Proposed</u>
Adelanto, California	—	224A
Avalon, California	224A	--
Fountain Valley, California	--	224A
Ridgecrest, California	224B1, 285B1	224A, 285B1 ¹¹
Riverside, California	224A, 248B, 256B	248B, 256B

¹¹Adelman's proposal to amend the Table of Allotments by reallocating channel 280B1 at Johannesburg to channel 280A at Edwards is pending in MM Docket 99-239.

Amaturo's proposal would provide a first local aural transmission service to Fountain Valley and to Adelanto, California, (priority three) whereas Avalon and Riverside will each retain local service (priority four). Therefore, grant of the Petition would further the public interest. Channel 224A can be allotted to Fountain Valley in conformity with the minimum distance separation requirements of Section 73.207(b) of the Commission's Rules at Amaturo's specified site; Channel 224A can be allotted to Adelanto at Amaturo's specified site; and the reference coordinates for Station KMLT, Channel 224A, Thousand Oaks, California, can be changed in accord with the Petition.

Moreover, the proposed downgrade to Channel 224A at Ridgecrest can be utilized at Amaturo's proposed site for Station KZIQ-FM.

X. ADELMAN DID NOT STATE A COUNTER-PROPOSAL.

Adelman's Comments in this proceeding do not include a counter-proposal to the proposals contained in Amaturo's Petition. Thus, Adelman's proposal should not be compared against Amaturo's proposal in this proceeding.

XI. CONCLUSION: AMATURO'S PROPOSALS SHOULD BE ADOPTED.

In conclusion, Amaturro Group of L.A., Ltd. respectfully submits that it has made all of the showings specified in the NPRM and the Commission's Rules and Regulations. The public interest benefits are manifest, as set out in Amaturro's Petition, the NPRM, and Amaturro's Comments, which briefly summarized include the following public interest considerations:

First Local Service for Two Communities.

Two communities will gain their first local transmission service, while no community that has local service will be left without it.

A Net Gain of a Reception Service by More Than 1.3 Million Persons Will Result.

The requested reallocations will not create any white or gray areas and will add service to in excess of 2.3 million persons. Although 900,000 persons will lose service, the Petition demonstrated that they will still receive service from five or more aural services.¹²

Interference Will Be Removed From 1.5 Million Persons.

Amaturro's proposal also will eliminate grand fathered short spacings between Stations KLIT, Avalon and KMLT, Thousand Oaks, as well as between Station KELT and KXFG, Channel 225A, Sun City, California, and Station KKUU, Channel 224A, Indio, California, resulting in the removal of interference to more than 1.5 million people.

¹² If both Amaturro's and Adelman's proposals are granted, 107 people will continue to receive four aural services. Amaturro's Petition demonstrated that these minimal losses would be more than off-set by the overall gains (182 persons will gain a fourth service and 506 people will gain their fifth aural service) that would inure from grant of Amaturro's proposal.

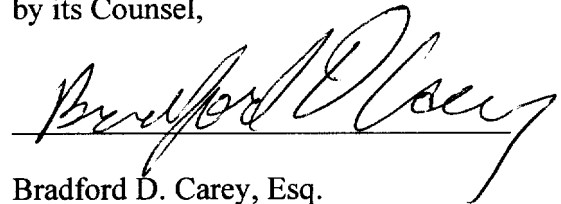
Amaturo has no objection to the grant of Adelman's proposal in MM Docket 99-239, provided that Amaturo's proposed modifications to the Table of Allotments for FM Broadcast Stations are granted. On a comparative basis, the public interest benefits of Amaturo's proposals far outweigh any public interest benefits of Adelman's proposal. However, since Adelman did not file a counter proposal in this proceeding, no comparison is needed. Simply stated, without a counter proposal in this proceeding, Adelman's comments do not advance any cognizable reason for the Commission not to grant Amaturo's Petition.

Therefore, in view of the foregoing and all of the filings and pleadings, Amaturo Group of L.A., Ltd. urges that the Commission adopt an Order amending Section 73.202(b), the Table of Allotments, FM Broadcast Stations as sought by Amaturo.

Respectfully submitted,

Amaturo Group of L.A., Ltd.

by its Counsel,

A handwritten signature in black ink, appearing to read "Bradford D. Carey", is written over a horizontal line.

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(504) 830-4644

Dated as of January 24, 2000

CERTIFICATE OF SERVICE

I, Bradford D. Carey, a(n) Attorney in the law firm of Hardy & Carey, L.L.P. do hereby certify under the penalty of perjury under the laws of the United States of America that a copy of the foregoing Comments have been mail, United States First Class Postage prepaid on this 24th day of January, 2000 to the following:

James L. and Donna L. Knudsen
Radio Station KZIQ-FM
121 West Ridgecrest Blvd.
Ridgecrest, CA 93555

David Hunsaker
Puthrese Hunsaker & Trent
100 Carpenter Drive, Suite 100
Sterling, VA 20167-0217

Counsel for Adelman Communications, Inc.

and by hand to drop-off for

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
at
445 Twelfth Street, S.W.; TW-A525
Washington, D.C. 20554


(Bradford D. Carey)